

IN THE UNITED STATES DISTRICT COURT FOR  
THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

UNITED STATES OF AMERICA )  
 )  
v. ) CR NO. 2:05cr315-SRW  
 ) WO  
BRENDA J. PENN )

**ORDER ON MOTION**

This cause is currently pending before the court on a Motion to Continue filed by the defendant, Brenda J. Penn, on May 8, 2006. The motion seeks a continuance of the trial currently set for May 15, 2006.

While the granting of a continuance is left to the sound discretion of the trial judge, United States v. Warren, 772 F.2d 827, 838 (11th Cir. 1985), the court is, of course, limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Speedy Trial Act provides generally that the trial of a defendant in a criminal case shall commence within 70 days of the latter of the filing date of the indictment or the date the defendant appeared before a judicial officer in such matter. 18 U.S.C. § 3161(c)(1). See United States v. Vasser, 916 F.2d 624 (11th Cir. 1990).

The Act excludes from this 70 day period any continuance that the judge grants "on the basis of his findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." 18 U.S.C. § 3161(h)(8)(A).

The court concludes upon the pleadings and its knowledge of this case that the ends of justice will be served by continuing this case for consideration of pretrial diversion.

Accordingly, it is hereby ORDERED that the Motion to Continue filed by defendant Brenda J. Penn, be GRANTED. This case is reset on the trial term commencing July 17, 2006.

DONE, this 8th day of May, 2006.

/s/ Susan Russ Walker  
SUSAN RUSS WALKER  
UNITED STATES MAGISTRATE JUDGE